

COMMISSIONERS APPROVAL

GRANDSTAFF

ROKOSCH

THOMPSON

CHILCOTT

DRISCOLL

PLETTENBERG (Clerk & Recorder)

Members Present.....Commissioner Carlotta
Grandstaff, Commissioner Alan Thompson, and Commissioner Kathleen Driscoll.

Date.....January 15, 2008

Minutes: Beth Perkins

Commissioner Greg Chilcott attended a JPA meeting in Bozeman for the day.

Commissioner Jim Rokosch attended the Water Policy Interim meeting for the day.

► The Board met for a public meeting for Locke Minor Subdivision. Present were Civil Counsel Alex Beal, Planner Randy Fifrick, Planner John Lavey and Representative Steve Powell.

Commissioner Grandstaff called the meeting to order. She requested any conflicts of interest, hearing none. She then requested the Planning Staff Report be read.

Randy presented the Staff Report as follows:

**LOCKE SUBDIVISION
TWO-LOT MINOR SUBDIVISION**

STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS

CASE PLANNER: Randy Fifrick

**REVIEWED/
APPROVED BY:** John Lavey

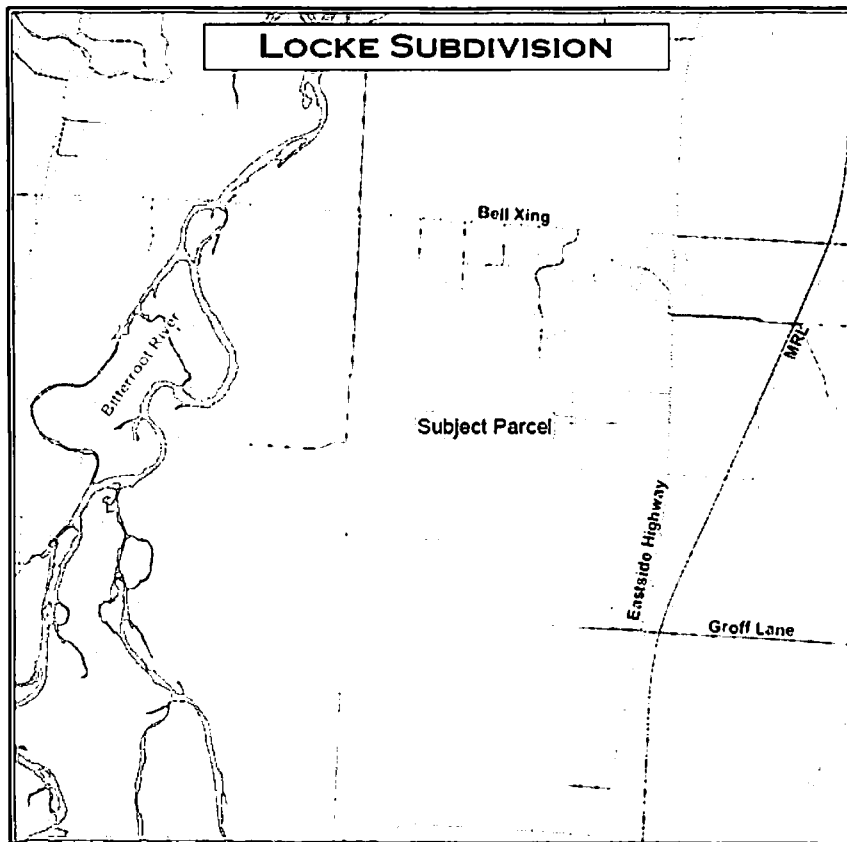
PUBLIC HEARINGS/

MEETINGS: BCC Public Meeting: 9:00 a.m. January 15, 2008
Deadline for BCC action (35-working days): January 22, 2008

SUBDIVIDER/OWNER: Evelyn Locke
2875 Eastside Highway
Stevensville, MT 59870

REPRESENTATIVE: Powell Surveying
341 Grantsdale Road
Hamilton, MT 59840

LOCATION OF REQUEST: The property is located northeast of Stevensville on the corner of Bailey Lane and North Birch Creek Road. (See Map 1)



Map 1: Location Map
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION
OF PROPERTY:**

A portion of the SE ¼ of Section 21, T8N, R20W,
P.M.M., Ravalli County, Montana.

APPLICATION

INFORMATION: The subdivision application was determined complete on November 29, 2007. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 through A-8 of the staff report. **This subdivision is being reviewed under the subdivision regulations amended May 24, 2007.**

LEGAL NOTIFICATION: Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked December 7, 2007. No public comments have been received.

**DEVELOPMENT
PATTERN:**

Subject property	Farmstead Rural
North	Residential Rural
South	Farmstead Rural
East	Agricultural Rural
West	Agricultural Rural

INTRODUCTION

The Locke minor subdivision is a two-lot subdivision of 46.45 acres located south of Stevensville. The property is accessed off of Eastside Highway by a common access. The western portion of the property lies within the 100-year floodplain and will be covered by a no-build alteration zone, as described in Condition 10.

Staff recommends conditional approval of the subdivision proposal.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

JANUARY 15, 2008

**LOCKE SUBDIVISION
TWO-LOT MINOR SUBDIVISION**

RECOMMENDED MOTION

That the Locke Minor Subdivision be ***approved***, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE
SUBDIVISION**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

Notification of Proximity to Agricultural Operations. This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

Limitation of Access onto a Public Road. A "no-ingress/egress" restriction exists along the Eastside Highway frontage of this subdivision, excepting the approved common access approach to Eastside Highway. All lots within this subdivision must use this approved approach. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Effects on Local Services and Public Health & Safety)*

Notification of Utility Easements. Within this subdivision there are utility easements and an easement for overhead power lines. No structure shall be allowed to encroach into or set upon the utility easements. The utility easements shall remain unobstructed and accessible at all times. *(Effects on Local Services)*

Notification of Water Rights. The owner of Lot 1 within this subdivision has irrigation rights from the Webfoot Ditch Company. The owner of Lot 2 does not have the right to any irrigation water. Residents should contact the Webfoot Ditch Company, 150 Houk Lane, Stevensville, Montana, 59870, 777-0006. *(Effects on Agricultural Water User Facilities)*

Notification of Irrigation Facilities and Easements. Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water-right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easements on the property. The downstream water rights holders must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch so as to interfere with its maintenance is expressly prohibited. *(Effects on Agricultural Water User Facilities)*

Notification of No-Build/Alteration Zone. Within this subdivision there is a no-build/alteration zone located on Lot 2, as shown on the plat, to restrict building in areas with riparian vegetation and wetlands. No new structure, with the exception of fences, may be constructed in this area. No new utilities may be constructed in this area. No fill may be placed in this area and the vegetation shall be retained in its natural condition. Roads, trails, and utility crossings through this area are not permitted. *(Effects on Natural Environment, Wildlife & Wildlife Habitat, Public Health & Safety)*

Notification of Proximity to Mitchell Slough. Mitchell Slough runs through Lot 1 from north to south. There is an inherent hazard associated with sloughs, due to potential soil erosion, flooding, and movement of the channel.

It is recommended that homeowners obtain flood insurance. *(Effects on Natural Environment and Public Health & Safety)*

Floodplain Development. This property is located in close proximity to the Bitterroot River. The banks of the River are subject to potential soil erosion, flooding, and movement of the River's channel. A professional survey has been done for this subdivision and portions of the property were found to be located within the 100-year floodplain of the Bitterroot River. Approval of this subdivision is not a guarantee that properties within this subdivision will be safe from flooding and/or surfacing high groundwater. It is recommended that property owners obtain flood insurance. No paving is permissible in areas delineated as being within the 100-year floodplain. All development within the 100-year floodplain must meet the minimum development standards set forth in the effective Ravalli County Floodplain Regulations. For a complete table of development restrictions and allowances in and near the floodplain, consult the effective Ravalli County Floodplain Regulations. *(Effects on Public Health & Safety)*

Notification of Wastewater Facility Setback. There is a 100-foot wastewater facility setback from the floodplain boundary. See Section 4.2(J) of the Ravalli County Subsurface Wastewater Treatment and Disposal Regulations or contact the Ravalli County Environmental Health Department for more information. *(Effects on Natural Environment and Public Health and Safety)*

Notification of "Very Limited" Soils. Within this subdivision there are areas of the property identified by the Natural Resources Conservation Service (NRCS) as potentially having soils rated as "very limited" for road construction and building sites. The approximate locations of these areas can be found on a reduced copy of the final plat. Descriptions of the severe soils in question are included as exhibits to this document [the subdivider shall include the exhibits as attachments]. *(Effects on Public Health & Safety)*

Notification of Proximity to Montana Rail-Link Railroad. This subdivision is located near the Montana Rail-Link railroad grade. Standard operation of the railroad can include elevated noise levels, exhaust fumes, and engine headlights, which may be objectionable to some people. In addition, there are inherent hazards associated with railroad operations. *(Effects on Public Health & Safety)*

Notification of Common Access Maintenance Agreement. The common access is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assume any liability for lacking or improper maintenance. A Common Access Maintenance Agreement for the access was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services)*

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

Waiver of Protest to Creation of RSID/SID. Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*

Living with Wildlife. Homeowners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants. Homeowners must be aware of potential problems associated with the occasional presence of wildlife such as deer, black bear, mountain lion, coyote, fox, skunk, raccoon and magpie. Please contact the Montana Fish, Wildlife & Parks office in Missoula (3201 Spurgin Road, Missoula, MT 59804) for brochures that can help homeowners "live with wildlife." Alternatively, see FWP's web site at www.fwp.mt.gov. *(Effects on Wildlife and Wildlife Habitat)*

The following covenants are designed to help minimize problems that homeowners could have with wildlife, as well as helping homeowners protect themselves, their property and the wildlife that Montanans value.

- a. Homeowners must be aware of the potential for **vegetation damage by wildlife**, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees in this subdivision. Homeowners should be prepared to take the responsibility to plant non-palatable vegetation or protect their vegetation (fencing, netting, repellents) in order to avoid problems. Also, consider landscaping with native vegetation that is less likely to suffer extensive feeding damage by deer.
- b. **Gardens, fruit trees** or orchards can attract wildlife such as bear and deer. Keep produce and fruit picked and off the ground, because ripe or rotting fruit or organic material can attract bears, skunks and other wildlife. To help keep wildlife such as deer out of gardens, fences should be 8 feet or taller. The top rail should be made of something other than wire to prevent wildlife from entanglement. Netting over gardens can help deter birds from eating berries. To keep wildlife such as bears out of gardens and/or away from fruit trees, use properly constructed electric fences and maintain these constantly. (Contact FWP for information on "all-species electric fencing" designed to exclude wildlife from gardens and/or home areas.)
- c. **Garbage** should be stored in secure animal-resistant containers or indoors to avoid attracting wildlife such as bear and raccoon. It is best to

not set garbage cans out until the morning of garbage pickup and to bring them in no later than that same evening.

- d. **Do not feed wildlife** or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law (MCA 87-3-130) to purposely or knowingly attract bears with supplemental food attractants (any food, garbage, or other attractant for game animals) or to provide supplemental feed attractants in a manner that results in "an artificial concentration of game animals that may potentially contribute to the transmission of disease or that constitutes a threat to public safety." Also, homeowners must be aware that deer might occasionally attract mountain lions to the area.
- e. **Birdseed** is an attractant to bears. If used, bird feeders should: a) be suspended a minimum of 20 feet above ground level, b) be at least 4 feet from any support poles or points, and c) should be designed with a catch plate located below the feeder and fixed such that it collects the seed knocked off the feeder by feeding birds.
- f. **Pets** must be confined to the house, in a fenced yard, or in an outdoor kennel area when not under the immediate control of the owner, and not be allowed to roam as they can chase and kill big game and small birds and mammals. Under current state law it is illegal for dogs to chase hoofed game animals and the owner may also be held guilty (MCA 87-3-124). Keeping pets confined also helps protect them from predatory wildlife.
- g. **Pet food and/or livestock feed** should be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife such as bears, mountain lions, skunks, raccoons, and other wildlife. **When feeding pets and/or livestock** do not leave food out overnight. Consider feeding pets indoors so that wild animals do not learn to associate food with your home.
- h. **Barbecue grills** should be stored indoors. Keep all portions of the barbecues clean. Food spills and smells on and near the grill can attract bears and other wildlife.
- i. Consider **boundary fencing** that is no higher than 3-1/2 feet (at the top rail or wire) and no lower than 18 inches (at the bottom rail or wire) in order to facilitate wildlife movement and help avoid animals such as deer becoming entangled in the fence or injuring themselves when trying to jump the fence. We encourage the use of split rail fences.

- j. **Compost piles** can attract skunks and bears. If used they should be kept indoors or built to be wildlife-resistant. Compost piles should be limited to grass, leaves, and garden clippings, and piles should be turned regularly. Adding lime can reduce smells and help decomposition. Do not add food scraps.
- k. **Apiaries (bee hives)** could attract bears in this area and [should be avoided/are not allowed] in this subdivision. (If used, consult Montana Fish, Wildlife & Parks or the U.S. Fish & Wildlife Service for help in planning and constructing an apiary system that will help deter bears.)
- l. These “living with wildlife” covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Riparian use guidelines. A no build/alteration zone beginning at the eastern edge of the 100-year floodplain and covering the property to the western, northern, and southern boundaries to protect any associated wetland and/or riparian areas connected with the Mitchell Slough. Encouraging the development of native vegetation (including shrubs and trees)--while *discouraging* actions such as grading, planting and irrigating lawns, mowing or cutting or clearing vegetation, and livestock grazing--would help preserve the functionality of this natural drainage, protect and improve wetland vegetation, enhance slope stability, and protect property from eroding banks and possible flooding. (*Effects on the Natural Environment and Wildlife & Wildlife Habitat*)

The following covenants, designed to guide use of this buffer zone, shall apply:

- a. No new building or alteration is allowed in the zone.
- b. Only non-motorized access and use of the buffer zone is allowed (except for certain maintenance needs such as weed spraying).
- c. Do not cut or remove live or dead vegetation, particularly shrubs and trees from the buffer zone. Wood (i.e., fallen branches, downed trees) is an important part of habitat and contributes significantly to overall slope stability, and dead trees also function as important wildlife nesting habitat. Exception: proper use of chemicals or other methods of control (other than mowing) for noxious weeds is allowed, and planting appropriate native riparian vegetation (trees, shrubs) is allowed.
- d. Do not plant lawns or crops in the buffer zone. Leave or plant native vegetation as ground cover as this avoids the use of fertilizers that contribute to water quality problems.

- e. If planting is planned for this area, the goal should be to re-establish native plant species appropriate to the site.
- f. In general, keep livestock out of the natural drainage, and do not include the drainage in corrals. Use fences to keep livestock from trampling and grazing riparian vegetation in the buffer zone.
- g. In summary, allow riparian areas--the creek and its buffer zone--to remain undisturbed. Do not modify them unless such change would help return the area to a natural state.
- h. These riparian covenants cannot be altered or eliminated without consent of the governing body (Ravalli County Commissioners).

Lighting for New Construction. To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit www.darksky.org. (*Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety*)

Required Posting of County-Issued Addresses for Lots within this Subdivision. The Stevensville Rural Fire District has adopted the Fire Protection Standards, which requires lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. (*Effects on Local Services and Public Health & Safety*)

Access Requirements for Lots within this Subdivision. The Stevensville Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information. (*Effects on Local Services and Public Health & Safety*)

Radon Exposure. The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the

Ravalli County Environmental Health Department for further information.
(*Effects on Public Health & Safety*)

Wood Stoves. The County recommends that home owners refrain from installing wood stoves if possible. The county further recommends that wood and other biomass burning stoves not be used as the primary heat source. If a homeowner chooses to burn wood as a back-up heat source, the county strongly encourages them to install an EPA-certified wood stove as the best option to reduce air pollution and more specifically, to install an EPA-certified pellet stove. More information on low emission, EPA-certified wood stoves is available at <http://www.epa.gov/woodstoves/index.html>. The State of Montana offers an Alternative Energy Systems Tax Credit to offset the cost of purchasing and installing a low emission wood or biomass combustion device such as a pellet or wood stove. Besides the tax credit for qualifying wood stoves, individual Montana residents can claim a tax credit for energy conservation investments made to a home or other building. For more information on the energy conservation tax credits and ways to save energy, please see the *Warm Hearts, Warm Homes* webpage (<http://deq.mt.gov/Energy/warmhomes/index.asp>) on the Montana Department of Environmental Quality's website. (*Effects on the Natural Environment*)

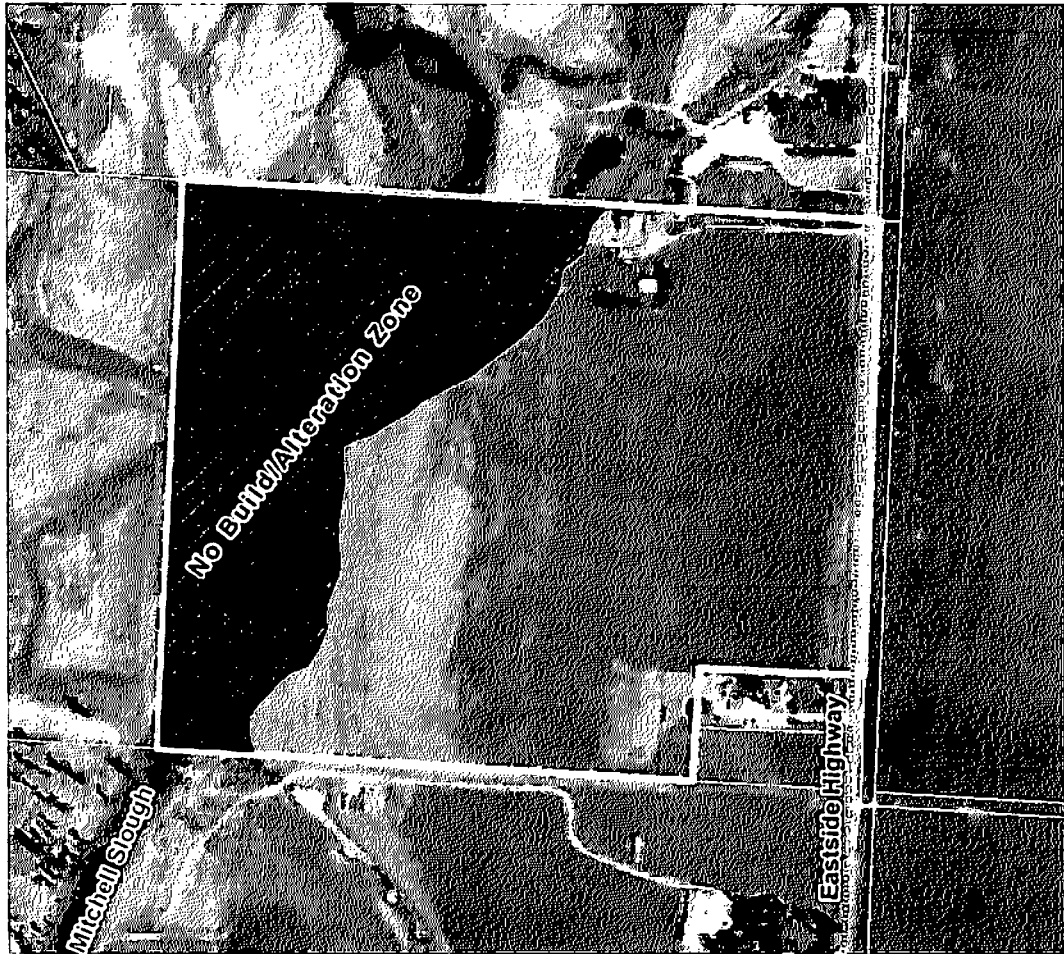
Control of Noxious Weeds. A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed District for further information. (*Effects on Agriculture and Natural Environment*)

Archeological Resources. If any archaeological, historic, or paleontological sites are discovered during road, utility, or building construction, all work will cease and the State Historic Preservation Office shall be contacted to determine if the find constitutes a cultural resource and if any mitigation or curation is appropriate. (*Section 3-2-8(b)(v), RCSR, Impacts on Natural Environment*)

Amendment. Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. (*Effects on all six criteria*)

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. (*Effects on Local Services*)

4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Stevensville Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Stevensville Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*
6. The following statement shall be shown on the final plat: "The Stevensville Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" Stevensville Rural Fire District for further information". *(Effects on Local Services and Public Health & Safety)*
7. The subdivider shall submit a letter or receipt from the Stevensville School District stating that they have received an (amount)-per-new-lot contribution prior to final plat approval. *(Effects on Local Services)*
8. The subdivider shall submit a (amount)-per-new-lot contribution made prior to final plat approval to an account for Public Safety (Sheriff, E-911, OEM) to mitigate impacts on local services and public health and safety. *(Effects on Local Services and Public Health and Safety)*
9. The subdivider shall pave the common approach a minimum of 20 feet wide from the surface of Eastside Highway back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Montana Department of Transportation, if specified in the approach permit. *(Effects on Local Services)*
10. The final plat shall show a no build/alteration zone beginning at the eastern edge of the 100-year floodplain and extending to the western, northern, and southern property boundaries to protect any associated wetland and/or riparian areas (See Map 2: No Build/Alteration Zone). *(Effects on Natural Environment and Wildlife and Wildlife Habitat)*



Map 2: No Build/Alteration Zone
 (Source Data: Ravalli County GIS Department)

11. The subdivider, in consultation with the BCC, shall contribute (amount) to the Open Lands Program, to be made upon the first conveyance, including lease or rent, of Lot 1. *(Effects on Agriculture)*
12. The subdivider, in consultation with the BCC, shall contribute (amount) to the County's general fund, to be made upon first conveyance, including lease or rent, of Lot 1. *(Effects on Local Services)*

FINAL PLAT REQUIREMENTS (RAVALLI COUNTY SUBDIVISION REGULATIONS)

The following items shall be included in the final plat submittal, as required by the Ravalli County Subdivision Regulations, Section 3-4-4(a) et seq.

1. A statement from the project surveyor or engineer outlining how each final plat requirement or condition of approval has been satisfied.
2. One paper and two mylar 18" x 24" or larger copies of the final plat, completed in accordance with the Uniform Standards for Final Subdivisions Plats (ARM 8.94.3003). (One paper copy may be submitted for the first proofing.) shall be submitted prior to final plat approval. The final plat shall conform to the preliminary plat decision. The following features are required on the Final Plat:
 - a. Project name
 - b. Title block
 - c. Certificate of registered owner – notarized
 - d. Certificate of registered land surveyor with seal
 - e. Certificate of governing body approval
 - f. Signature block for Clerk and Recorder, preferably in lower right hand corner
 - g. Certificate of public dedication
 - h. Certificate of park cash-in-lieu payment
 - i. Other certifications as appropriate
 - j. North arrow
 - k. Graphic scale
 - l. Legal description
 - m. Property boundaries (bearings, lengths, curve data)
 - n. Pertinent section corners and subdivision corners
 - o. Names of adjoining subdivisions/certificates of survey
 - p. Monuments found
 - q. Witness monuments
 - r. Acreage of subject parcel
 - s. Curve data (radius, arc length, notation of non-tangent curves)
 - t. Line data (lengths to tenths of a foot, angles/bearings to nearest minute)
 - u. Lots and blocks designated by number (dimensions/acreage)
 - v. Easements/rights of ways (location, width, purpose, ownership)
 - w. Dedication for public use (boundaries, area, purpose)
 - x. No-build/alteration zones
 - y. No-ingress/egress zones
 - z. Water resources (rivers, ponds, etc.)
 - aa. Irrigation canals including diversion point(s), etc.
 - bb. Existing and new roads (names, ownership, etc.)
3. The original copy of the preliminary plat decision shall be submitted with the final plat submittal.
4. Any variance decisions shall be submitted with the final plat submittal (none have been requested at this time).
5. Copies of extensions of the preliminary plat approval period shall be submitted with the final plat submittal.
6. The final plat review fee shall be submitted with the final plat submittal.

7. A Consent to Plat form, including notarized signatures of all owners of interest, if the developer is not the underlying title holder, shall be submitted with the final plat submittal.
8. A Title Report or updated Abstract dated no less than one (1) year prior to the date of submittal shall be submitted with the final plat submittal.
9. The DEQ Certificate of Subdivision Approval, RCEH approval, or subdivision review exemption from RCEH shall be submitted with the final plat submittal.
10. Copy of the General Discharge Permit for Stormwater Associated with Construction Activity from the DEQ shall be submitted with the final plat submittal.
11. The approved Ground Disturbance and Noxious Weed Management Plan for the control of noxious weeds and the re-vegetation of all soils disturbed within the subdivision shall be submitted with the final plat submittal.
12. Road and driveway approach and encroachment permits for the common access shall be submitted with the final plat submittal.
13. Utility availability certification(s) shall be submitted with the final plat submittal.
14. A signed and notarized master irrigation plan, or if one is not required, written and notarized documentation showing how the water rights are to be divided or written and notarized documentation indicating that the water rights will be removed from the property shall be submitted with the final plat submittal.
15. Protective covenants to be filed with the final plat that are signed and notarized shall be submitted with the final plat submittal.
16. A copy of the letter sent to the appropriate school district(s) stating the applicant has made or is not willing to make a voluntary contribution to the school district to mitigate impacts of the subdivision on the school district that are not related to capital facilities; shall be submitted with the final plat submittal.
17. Evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider, Professional Engineer, or contractor, as may be appropriate and required, shall be submitted with the final plat submittal. A Professional Engineer's certification shall be required in any instance where engineered plans are required for the improvement. Alternatively, an improvements agreement and guaranty shall be required. (Refer to Section 3-4-2.)

SUBDIVISION REPORT

COMPLIANCE WITH PREREQUISITES TO APPROVAL

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it establishes by credible evidence that the proposed subdivision meets the following requirements:

- A. Provides easements for the location and installation of any planned utilities.**

Findings of Fact

1. Existing utility easements are located along Eastside Highway. (Application)
2. Existing and proposed utility easements are required to be shown on the final plat. (Final Plat Requirement 2)

Conclusion of Law

The proposed subdivision application provides for utility easements.

B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.

Findings of Fact

1. The subject property is accessed by Eastside Highway. (Application)
2. Eastside Highway is listed as a state-maintained road. (GIS)
3. A common access will provide legal and physical access off of Eastside Highway. (Plat)
4. The subdivider will be required to attain an approach permit for the common access onto Eastside Highway prior to final plat submittal. (Final Plat Requirement 12)

Conclusion of Law

Legal and physical access is adequate for this site.

C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.

Finding of Fact

The applicant is required to submit evidence that the improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval (Final Plat Requirements 1 and 17).

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.

Findings of Fact

1. This subdivision has the following water rights: (Application)
 - a. 25 shares with the Webfoot Ditch Company, which will be transferred to Lot 1.

- b. DNRC right 76HW 147919 for the domestic well which serves Mrs. Locke's house on Lot 2.
 - c. DNRC right 76HW 147920 for an irrigation pump from a spring which will continue to serve Lot 2.
 - d. DNRC right 76HW 147921 for an irrigation pump from a spring which will continue to serve Lot 1.
2. The Webfoot Ditch Company lateral ditch serving this property ends on the property. (Application)

Conclusion of Law

With the approval from the Webfoot Ditch Company this requirement has been met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact

1. The applicant is proposing an irrigation easement for the irrigation pump and mainline for Lot 2. This easement begins at an existing permitted pond and traverses Lot 1 to Lot 2. (Plat)
2. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
3. *To ensure that the appropriate irrigation easements are in place and future owners are aware they cannot plant or build within the easements, the following requirements and conditions shall be met prior to final plat approval:*
 - *A notification of the irrigation easements shall be included in the notifications document. (Condition 1)*
 - *The irrigation easement for the irrigation pump and mainline for Lot 2 is required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *Section 3-4-4(a)(ii)(V) requires that the irrigation easements be shown on the final plat.*

Conclusion of Law

With the requirements and conditions of final plat approval, this prerequisite has been met.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

Findings of Fact

Parkland dedication is not required for two-lot first minor subdivisions. (Section 3-3-2(b), RCSR)

Conclusion of Law

This requirement is not applicable.

COMPLIANCE WITH APPLICABLE REGULATIONS

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

A. These regulations, including, but not limited to, the standards set forth in Chapter 5.

Findings of Fact

1. The lot layout as indicated on the preliminary plat appears to meet the design standards in Chapter 5 of the Ravalli County Subdivision Regulations. (RCSR Ch. 5)
2. This development plan proposal has followed the necessary application procedure and has been reviewed within the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. (RCSR Ch. 3)

Conclusions of Law

1. The preliminary plat and subdivision application meet all applicable standards required in the RCSR.
2. The procedures for the application and review of this proposed subdivision have been followed.

B. Applicable zoning regulations.

Findings of Fact

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038). The application complies with Resolution 2038.
2. The property is not within one of the voluntary zoning districts in Ravalli County. (RC GIS Data)

Conclusion of Law

This proposal appears to comply with existing zoning regulations.

C. Existing covenants and/or deed restrictions.

Finding of Fact

There are no existing covenants on the property. (RC Clerk & Recorder's Office)

Conclusion of Law

Since there are no covenants, this criterion does not apply.

D. Other applicable regulations.

Findings of Fact

1. Following are regulations that may apply to this subdivision:

- Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
 - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
 - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
 - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
 - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the pre-application conference held on January 24, 2007. (Application)

Conclusion of Law

The application appears to meet all of the applicable regulations.

E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:

CRITERION 1: EFFECTS ON AGRICULTURE

Findings of Fact:

1. The proposed minor subdivision on 46.45 acres will result in 2 lots that range in size from 3.17 acres to 43.28 acres. The property is located approximately 5 miles south of the community of Stevensville. (Application)
2. The property is currently being used by cattle for grazing. (Site Visit)
3. This parcel is classified for tax purposes as farmstead rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
4. Parcels adjacent to the subject property are classified for tax purposes as agricultural rural, farmstead rural and residential rural. (Montana Cadastral Database created by Montana Department of Administration, Information Technology Services Division, Geographic Information Services)
5. The new soils data available from the NRCS Web Soil Survey shows there are no soils on the property that are listed as Prime Farmland Soils or Farmland of Statewide Importance. Farmland of local importance covers approximately 65% of the property. (Exhibit A-1)
6. In an email dated August 21, 2007, Jay Skovlin, local NRCS soil scientist, stated that the Farmland of local importance classification was not intended to be used to determine important agricultural land for subdivision review. It is the lowest tier of farmland soils and the criteria have a low threshold so this classification does not show the most productive soils in the Valley. The classification will be used as a preliminary screening tool for the Farm and Ranch Land Protection Program. (U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS)) (Exhibit A-2)
7. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed, canada thistle,

- houndstongue, common tansy, ox-eye daisy, tall buttercup, and yellow flag iris were found in small infestations on the property. (Application)
8. Any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (7-22-2152, MCA)
 9. The applicant is proposing a \$250 contribution to the Open Lands Program (OLP) upon the first conveyance of Lot 1. The BCC, in consultation with the subdivider, should negotiate an amount to be contributed to the OLP. (Application, Condition 11)
 10. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agriculture:*
 - *A notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
 - *The approved Ground Disturbance and Noxious Weed Management Plan is required to be submitted prior to final plat approval. (Final Plat Requirement 11)*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*
 - *A contribution to the Open Lands Program of (to be determined) will be made at the time of the initial sale of Lot 1 to mitigate the impacts on agriculture. (Condition 11)*

Conclusions of Law:

With the mitigating conditions of approval and requirements of final plat approval, the impacts of the subdivision on agriculture will be reduced.

CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

Findings of Fact

1. This subdivision has the following water rights: (Application)
 - a. 25 shares with the Webfoot Ditch Company, which will be transferred to Lot 1.
 - b. DNRC right 76HW 147919 for the domestic well which serves Mrs. Locke's house on Lot 2.
 - c. DNRC right 76HW 147920 for an irrigation pump from a spring which will continue to serve Lot 2.
 - d. DNRC right 76HW 147921 for an irrigation pump from a spring which will continue to serve the area included in Lot 1.
2. The property is currently being irrigated and grazed by cattle. (Plat) (Site Visit)

3. The applicant is proposing an irrigation easement for the irrigation pump and mainline for Lot 2. This easement begins at an existing permitted pond and traverses Lot 1 to Lot 2. (Plat)
4. The placement of structures or the planting of vegetation other than grass within the irrigation easement is prohibited. (76-3-504(1)(k) MCA).
5. The subdivider has prepared a master irrigation plan in accordance with the RCSR that shows the amount of water allocated to each lot and a water schedule showing when each user may use the water and under what conditions. (Application)
6. *Following are conditions and requirements of final plat approval that will mitigate the impacts of the subdivision on agricultural water user facilities:*
 - a. *A notification of the irrigation facilities and easements shall be included in the notifications document. (Condition 1)*
 - b. *A notification of water rights shall be included in the notifications document. (Condition 1)*
 - c. *The irrigation easement for the irrigation pump and mainline for Lot 2 is required to be shown on the final plat, as shown on the preliminary plat. (Final Plat Requirement 2)*

Conclusion of Law

With the conditions and requirements of final plat approval, impacts to agricultural water user facilities will be reduced.

CRITERION 3: EFFECTS ON LOCAL SERVICES

Findings of Fact:

Fire Department

1. The subdivision is located within the Stevensville Rural Fire District. (Application)
2. The Etna Fire Station is located ½ mile from this property. (Application)
3. The Stevensville Rural Fire District sent a letter to the Planning Department dated April 10, 2007 in which they stated that they require either a water system in accordance with the uniform fire code or a \$500.00 per lot voluntary contribution. They also stated they had no objections to this subdivision. (Exhibit A-3)
4. The Stevensville Rural Fire District has adopted the Fire Protection Standards, which address access, posting of addresses, and water supply requirements.
5. *The following conditions will mitigate impacts of the subdivision on the Fire District:*
 - *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
 - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Conditions 2 and 4)*

- *Prior to final plat approval, the subdividers shall provide a letter from the Stevensville Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Stevensville Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. (Condition 5)*
- *The following statement shall be shown on the final plat: "The Stevensville Rural Fire District has adopted the Fire Protection Standards. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 22', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Stevensville Rural Fire District for further information". (Condition 6)*
- *The subdivider shall pave the common approach a minimum of 20 feet wide from the surface of Eastside Highway back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Montana Department of Transportation, if specified in the approach permit. (Condition 9)*

School District

6. With this subdivision, it is estimated that approximately 0.5 school-aged children will be added to the Stevensville School District, assuming an average of 0.5 children per household (Census 2000).
7. A letter from the Stevensville School District was received on December 13, 2007. The letter states the following: (Exhibit A-4)
 - The Stevensville School District has a bus policy that stipulates buses can only travel on state and county maintained roads.
 - Each subdivision must provide a safe pick-up/drop off zone for school bus children.
 - Although our school district has not completed an impact fee study, it would be safe to say the cost would be approximately \$7,500 per single family dwelling. The estimate is based on other schools' completed impact study findings.
8. The subdivision is accessed off of Eastside Highway, a State-maintained highway. (Application)
9. Ernie Jean, County Superintendent, sent a letter to the Ravalli County Commissioners stating that Ravalli County Educational Transportation Committee recently adopted a resolution requesting that the Commissioners establish a requirement that the developers of each subdivision establish a shelter at a bus stop and a possible turnout, or turnaround if appropriate, at each subdivision entrance that is off a County owned and maintained road. (Exhibit A-5)
10. Considering that Eastside Highway is a State-maintained road, the number and size of the lots of the proposal, and the surrounding uses and lot densities, the Planning Department determined that a bus turnout is not necessary for this subdivision. (Staff Determination)

11. The Stevensville School District has not completed an impact fee study at this time and Ravalli County has not adopted impact fees to date. The County cannot request a contribution for capital expenses until an impact fee has been adopted. (MCA 7-6-1603)
12. County School Superintendent, Ernie Jean, has provided the Planning Department the Budget Per Pupil/Tax Levy Per Pupil information for Ravalli County. According to the document, the tax levy per pupil, excluding capital, would be \$2,558.50 for the Stevensville School District (averaging Stevensville HS and Stevensville Elem). (Exhibit A-6)
13. The subdivider is proposing a contribution of \$500 to be made at the time of the initial sale of Lot 1 to mitigate the impact on the Stevensville School District. (Application, Condition 7)
14. *To mitigate impacts on the School District, the applicant shall submit a letter or receipt from the Stevensville School District stating that they have received an (amount) per-lot contribution prior to final plat approval. (Condition 7 and Final Plat Requirement 16) (Staff Note: Since the applicants and the School District did not agree on an amount, staff recommends that the BCC negotiate an amount with the applicant and include the appropriate finding(s) supporting the amount in their decision.)*

Public Safety

15. The Ravalli County Sheriff's Office provides law enforcement services to this area. (Application)
16. Notification letters were sent to the Ravalli County Sheriff's Office requesting comments on March 23, 2007 and December 7, 2007, but no comments have been received from the Sheriff's Office. (Subdivision File)
17. The new residence will place an additional demand for service from the Sheriff. The subdivider is offering a contribution of \$500 to be made at the time of the initial sale of Lot 1 to mitigate this impact. (Application)
18. *To mitigate impacts on local services, the subdivider shall:*
 - *Submit an (amount)-per-lot contribution made prior to final plat into an account for Public Safety (Sheriff, E-911, OEM) to mitigate impacts on local services and public health and safety. (Condition 8)*
 - *Pave the common approach a minimum of 20 feet wide from the surface of Eastside Highway back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Montana Department of Transportation, if specified in the approach permit. (Condition 9)*

Emergency Services

19. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Dept. Marcus Daly Hospital was contacted but no comments have been received to date. (Application)
20. *To mitigate impacts on emergency services, the subdivider shall meet the following condition:*
 - *The applicant shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*

- *Paving the common approach a minimum of 20 feet wide from the surface of Bailey Lane back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Ravalli County Road and Bridge Department, if specified in the approach permit. (Condition 9)*

Parkland Dedication

21. Parkland dedication is not required for two-lot first minor subdivisions. (Section 3-3-2(b), RCSR)

Water and Wastewater Districts

22. Individual wells and wastewater treatment systems are proposed to serve the lots. The property is not near any municipal water or wastewater systems. (Application)

Solid Waste Services

23. Bitterroot Disposal provides service to this site. (Application)
24. Notification letters were sent to Bitterroot Disposal requesting comments on March 23, 2007 and December 7, 2007, but no comments have been received. (Subdivision File)

Utilities

25. The proposed subdivision will be served by Ravalli Electric Cooperative. The utility company has been notified of the proposed subdivision. (Application)
26. Notification letters were sent to Ravalli Electric Cooperative requesting comments on March 23, 2007 and December 7, 2007, but no comments have been received by the company. (Subdivision File)
27. *The following requirements will mitigate impacts of the subdivision on local utilities:*
 - *Existing and proposed utility easements shall be shown on the final plat. (Final Plat Requirement 2)*
 - *A notification of utility easements shall be included in the notifications document. (Condition 1)*
 - *The applicant shall submit a utility availability certification from Ravalli Electric Cooperative prior to final plat approval. (Final Plat Requirement 13)*

Roads

28. There are (2) two proposed single family residential lots within this subdivision. It is estimated at build-out that this subdivision will generate a total of 8 additional vehicular trips per day, assuming 8 trips per day per new single-family dwelling. (Application)
29. Eastside Highway, a State-maintained road will provide access to the subdivision. (Application)
30. The applicant submitted and received an approved approach permit on February 23, 2007 from MDT. (Application)
31. Montana Department of Transportation (MDT) sent comments to the Planning Department dated March 28, 2007. In the letter, MDT encourages the use of a consolidated access location and/or internal easements to reduce the number of access locations. (Exhibit A-7)
32. The subdivision will be accessed by common access. (Plat)

33. *To mitigate impacts on the roads leading to the subdivision, the following conditions and requirements shall be met:*
- *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ shall be submitted prior to final plat approval, if applicable. (Final Plat Requirement 10)*
 - *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
 - *The final plat shall show a no-ingress/egress zone along the Eastside Highway frontage of the subdivision, excepting the approach, as approved by the Montana Department of Transportation, as shown on the preliminary plat. (Final Plat Requirement 2)*
 - *The notifications document filed with the final plat shall include a statement notifying lot owners of the no ingress/egress restriction. (Condition 1)*
 - *The subdivider shall pave the common approach a minimum of 20 feet wide from the surface of Eastside Highway back to the edge of the right-of-way/easement boundary or a distance of 20 feet, whichever is greater, or as required by the Montana Department of Transportation, if specified in the approach permit. (Condition 9)*

General

34. Growth may impact the quality of general services that Ravalli County can provide to residents. (Exhibit A-13)
35. To mitigate possible impacts on general County services, the subdivider is proposing to contribute \$200 at the time of the initial sale of Lot 1 to the County's general fund. (Application, Condition 12)
36. *To mitigate impacts on Ravalli County, an (amount) contribution shall be submitted to an account for the County's General Fund upon first conveyance of Lot 1 to mitigate impacts on County services (Condition 12)*

Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

Findings of Fact:

Air Quality

1. This proposed subdivision would add one new home to an area of existing low density development between Corvallis and Stevensville. (Plat) (Site Visit)
2. In a letter dated November 9, 2007, the Montana Department of Environmental Quality (DEQ) identified Missoula, Lincoln, and Ravalli County as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of

particulate from this subdivision could come from vehicles or wood-burning stoves. (Exhibit A-11)

3. *To mitigate impacts on air quality, the covenants shall include a recommendation that EPA-certified wood stoves should be installed to reduce air pollution and that wood burning stoves should not be used as the primary heat source. (Condition 2)*

Ground Water Quality

4. The applicants are proposing individual wells and wastewater facilities. (Application)
5. The property had two site evaluations performed on February 28, 2006 by the Ravalli County Environmental Health Department. (Exhibit A-
6. Lot 2 has an existing onsite septic system and individual well. The applicant is proposing a new onsite septic system and an individual well for Lot 1. (Application)
7. Because the new lot is over 20 acres, review of the water and wastewater treatment facilities for the subdivision will be completed by the Ravalli County Environmental Health Department (RCEH) instead of DEQ. (*Section 5-3-1(b), RCSR*)
8. RCEH performed two site evaluations on the property on 2/28/06. (Exhibit A-8)
9. The subdivision is exempt from RCEH review. (MCA 76-4-125(2)(e)(ii), MCA 76-4-102(16), Application)
10. *The applicant is required to submit documentation from the RCEH stating their approval of the subdivision, or stating that the subdivision is exempt from review, prior to final approval. (Final Plat Requirement 9)*

Surface Water Features

11. Mitchell Slough traverses the property from south to north. (Plat, Site Visit)
12. The applicant is proposing a "No-Build / Alteration Zone 100' Back from Mitchell". (Plat)
13. Laura Hendrix, Ravalli County Floodplain Administrator, recommended that the western portion of the parcel (from the edge of the 100-year floodplain to the west parcel boundary) be delineated as a no build/alteration zone. (Exhibit A-9)
14. There is a 100-foot wastewater facility setback from the floodplain boundary. (Section 4.2(J) Ravalli County Subsurface Wastewater Treatment and Disposal Regulations)
15. *To mitigate the impacts on the natural environment, the following items shall be required:*
 - *The final plat shall show a no build/alteration zone beginning at the eastern edge of the 100-year floodplain and covering the property to the western, northern, and southern boundaries to protect any associated wetland and/or riparian areas. (Condition 10)*

- *A notification of the no build/alteration zone shall be included in the notifications document. (Condition 1)*
- *A notification of the proximity of the Bitterroot River shall be included in the notifications document. (Condition 1)*
- *A notification of the proximity of Mitchell Slough shall be included in the notifications document. (Condition 1)*
- *A notification of the wastewater facility setback shall be included in the notifications document. (Condition 1)*
- *The covenants shall include a riparian use guidelines section. (Condition 2)*

Light Pollution

16. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution. (International Dark-Sky Association)
17. *To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

Vegetation

18. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated spotted knapweed, canada thistle, houndstongue, common tansy, ox-eye daisy, tall buttercup, and yellow flag iris were found in small infestations on the property. (Application)
19. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. (MCA 7-22-2152)
20. The Montana Natural Heritage Program found that there were no plant species of concern within the same sections as the subject property (Application).
21. *To mitigate impacts on the natural environment:*
 - *A noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2 and Final Plat Requirement 11)*
 - *The covenants shall include a riparian use guidelines section. (Condition 2)*

Historical/Archeological Sites

16. The application states that there are no known sites of historical significance on the property. (Application)
17. *The covenants shall include an archeological resources section. (Condition 2)*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval

CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT

Findings of Fact:

Notification letters were sent to Fish, Wildlife & Parks (FWP) requesting comments on March 23, 2007 and December 7, 2007, but no comments have been received from FWP. (Subdivision File)

FWP has recommended including "living with wildlife" covenants on previous subdivision. The "living with wildlife" covenants included for this subdivision are typical recommendation from FWP. (Exhibit A-12)

The property is not located within big-game winter range. (FWP)

According to the Montana Natural Heritage Program, Barn Owls, Great Blue Herons, Bobolinks, Westslope Cutthroat Trout, and Bull Trout, which are all identified as species of concern, have been known to exist in the same section as the proposed subdivision. The subdivider requested and received a waiver from the requirement to submit a sensitive species report because of lack of habitat on the property for all species. (Application)

To mitigate impacts on wildlife and wildlife habitat, the following conditions shall be met:

- *The covenants shall include a living with wildlife section. (Condition 2)*
- *The covenants shall include a riparian use guidelines section. (Condition 2)*
- *The final plat shall show a no build/alteration zone starting at the eastern edge of the 100-year floodplain and covering the property to the west boundary of the property to protect any associated wetland and/or riparian areas. (Condition 10)*
- *A notification of the no build/alteration zone shall be included in the notifications document. (Condition 1)*
- *The covenants shall include a provision recommending full cut-off lighting. (Condition 2)*

Conclusion of Law:

With the mitigating conditions of approval, impacts on Wildlife & Wildlife Habitat will be reduced.

CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

Findings of Fact:

Traffic Safety

1. Access is proposed off Eastside Hwy. (Application)
2. The applicant submitted and received an approved approach permit on February 23, 2007 from MDT. (Application)
3. Montana Department of Transportation (MDT) sent comments to the Planning Department dated March 28, 2007. In the letter MDT encourages the use of consolidated access location and/or internal easements to reduce the number of access locations. (Exhibit A-7)
4. *The requirements and conditions listed under Roads in Criterion 3 will mitigate the impacts of the subdivision on traffic safety.*

Emergency Vehicle Access and Response Time

5. The proposed subdivision will be served by the Stevensville Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. (Application)
6. *The requirements and conditions listed under Fire District, Law Enforcement, Emergency Services, and Roads in Criterion 3 will mitigate the impacts of the subdivision on emergency vehicle access and response time.*

Water and Wastewater

7. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)
8. *To mitigate effects on water and wastewater, the following shall be met:*
 - *The DEQ Certificate of Subdivision Approval, RCEH approval, or subdivision review exemption from RCEH shall be submitted with the final plat submittal. (Final Plat Requirement 9)*
 - *A notification of the no build/alteration zone shall be included in the notifications document. (Condition 1)*
 - *A notification of the proximity to Mitchell Slough shall be included in the notifications document. (Condition 1)*

Natural and Man-Made Hazards

9. The western portion of the property, in proximity to the Mitchell Slough, is located within the 100 year floodplain. (Plat)
10. Larry Schock, of the Montana Department of Natural Resources, recommends that the actual limits of the 100 year floodplain be mapped on the plat map by defining where the 100 year base flood elevations intersect the natural ground elevations. (Exhibit A-10)
11. Laura Hendrix, Ravalli County Floodplain Administrator, noted in her comment to the Planning Department that although Mr. Powell delineated the eastern edge of the 100-year floodplain, he did not clearly define the location of the 100-year floodplain boundary on the west side of the parcel. The only line defined is the 3340' contour elevation. (Exhibit A-9)
12. There is a 100-foot wastewater facility setback from the floodplain boundary. (Section 4.2(J) Ravalli County Subsurface Wastewater Treatment and Disposal Regulations)
13. The soils of this subdivision are rated as "very limited" or "severe" for road and building construction. (NRCS, Application)
14. According to a document titled "Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water" published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County. (DEQ)
15. This subdivision is located .17 miles from the Montana Rail-Link Railroad. (RC GIS)
16. *To mitigate possible impacts on public health and safety, the following conditions shall be met:*
 - *A notification of the Wastewater Facility Setback shall be included in the notifications document. (Condition 1)*
 - *A notification of the no build/alteration zone shall be included in the notifications document. (Condition 1)*

- *A notification of the potential hazards associated with floodplain development shall be included in the notifications document. (Condition 1)*
- *A notification of the proximity to the Montana Rail-Link Railroad shall be included in the notifications document. (Condition 1)*
- *The covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*
- *The covenants shall include a statement regarding radon exposure. (Condition 2)*
- *The notifications document shall include a statement regarding "very limited" or "severe" soils in this subdivision. (Condition 1)*

Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Randy stated there was a letter received by the Galihers (neighbor) regarding the possibility of a cemetery located on the property. Commissioner Grandstaff requested comments from Civil Counsel regarding the cemetery. Alex replied it is not a major issue. He stated it could be labeled as a no-build zone. Commissioner Thompson stated he had a hard time believing there are 80 graves without markers.

Commissioner Grandstaff opened public comment.

Steve Powell stated an old ranch worker who worked the land had asked Evelyn Locke to sell him some land. At the time she was not interested and he later passed away. She since decided to sell the property and live from the profits. There are irrigation pumps on the pond and one serves the big field and the other serves the yard sprinklers. The pond will be owned by the larger lot. Evelyn will keep the smaller lot for her home. Steve pointed out the common access area for the lots. Steve discussed the cemetery. He stated the first time he heard about it was yesterday. He did investigate it and he characterizes it as local folklore. They have not been marked and no one knows anything about it. He checked with the Clerk & Recorder and the only thing he could find was the old school house. It is hard to imagine 80 graves with no record or any kind of confirmation. This land had been farmed for a long period.

Commissioner Grandstaff asked how a potential buyer would know that. Randy stated only by notification. Steve stated there is nothing in the chain of records indicating the cemetery exists. Steve suggested rather than labeling it as a no-build zone, to notify the landowners prior to excavation. Commissioner Grandstaff agreed.

Commissioner Grandstaff closed public comment and opened Board deliberation.

1. Effects on Agriculture: Commissioner Grandstaff stated there is an offer to mitigate the effects with a \$250 per lot contribution to the Open Lands Program. It was the Board's consensus to accept the offer.

2. Effects on Agricultural water user facilities: Commissioner Grandstaff questioned the 25 shares on the ditch. Steve replied it is a way to allocate the water in the ditch by the ditch company. What they have done is put more water into the Mitchell Ditch for irrigation. There is a wheel line in the pond. Commissioner Grandstaff requested any other comments, hearing none.

3. Effects on Local Services: Commissioner Grandstaff stated there is an offer of \$500 to the Stevensville Fire Department, \$500 to Stevensville School District, \$500 to Public Health and Safety and \$200 to County General Services. Steve requested these be payable upon first conveyance. John stated he would recommend putting it on the final plat. Commissioner Grandstaff questioned the bus turnout. Randy replied the request is generally for a larger development off a county-maintained road not a two lot split off a state-maintained highway. Commissioner Grandstaff agreed.

4. Effects on Natural Environment: Commissioner Grandstaff stated the cemetery will be a notification on the final plat. Randy stated it is in the covenants under archeological resources. Randy stated they will add it to condition two and the final plat. Commissioner Grandstaff requested any other comment, hearing none.

5. Effects on Wildlife and Wildlife Habitat: Commissioner Grandstaff stated there were no comments from FWP. Steve stated there was consultation regarding habitats along the Mitchell. Commissioner Grandstaff requested any other comment, hearing none.

6. Effects on Public Health and Safety: Commissioner Grandstaff stated it has been mitigated. Commissioner Thompson discussed the access and stated it looks good to him. Commissioner Grandstaff requested any other comment, hearing none.

Commissioner Grandstaff asked Randy to reiterate the offer by the developer.

Randy stated they offer \$250 to the Open Land Board, \$500 to the Stevensville Fire Department, \$500 to the Stevensville School District, \$500 to Public Health and Safety, \$200 to County General Services and notification of the cemetery and amendment to Condition 2 to include notification of the cemetery payable prior to final plat approval.

Commissioner Thompson made a motion to approve Locke Minor Subdivision based on findings of fact and conclusions of law in the Planning Staff Report and mitigation here today to include contributions and notification of the cemetery. Commissioner Driscoll seconded the motion, all voted 'aye'.

Commissioner Grandstaff and Commissioner Driscoll attended the Water Policy Interim meeting for the remainder of the day.